

MAR 08 2019

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# SENATE CONCURRENT RESOLUTION

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REQUESTING THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS TO  
CONVENE A MORTGAGE FORECLOSURE FRAUD TASK FORCE TO DEVELOP  
RECOMMENDATIONS TO IMPROVE MORTGAGE FRAUD PROTECTIONS FOR  
CONSUMERS.

1 WHEREAS, the foreclosure crisis and Great Recession of the  
2 late 2000s and early 2010s resulted in approximately nine  
3 million families losing their homes to foreclosure or short sale  
4 between 2006 and 2014; and

5  
6 WHEREAS, the evidence of the long-lasting effects of the  
7 foreclosure crisis are still being felt today, including:

8  
9 (1) The labor-force participation rate, which measures the  
10 share of working-age adults who are employed or  
11 looking for employment, dropped precipitously during  
12 the recession and remains at a decades-long low of  
13 sixty-two percent;

14  
15 (2) The average household income of the bottom twenty  
16 percent of Americans fell over \$500 between 2006 and  
17 2016;

18  
19 (3) In 2016, there were 400,000 fewer homeowners than in  
20 2006 even though the population grew by eight million  
21 households over the same time period, which  
22 constitutes a drop in homeownership of almost six  
23 percent; and

24  
25 (4) The median net worth for households remains more than  
26 thirty percent below the 2007 level; and

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28 WHEREAS, the United States Department of Justice cited  
29 fraud as a significant contributing factor to the foreclosure  
30 crisis; and  
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1 WHEREAS, before and during the foreclosure crisis, fraud  
2 took various forms, including falsifying borrowers' incomes on  
3 loan documents to qualify them for larger loans than the  
4 borrowers could afford, inflating appraisal values, failure to  
5 report second liens, and misrepresentations during sales of  
6 securitized mortgages; and  
7

8 WHEREAS, according to the Federal Bureau of Investigation,  
9 eighty percent of mortgage fraud for profit cases involved  
10 collusion or collaboration with industry insiders, with  
11 individual buyers often the innocent victims; and  
12

13 WHEREAS, the frauds that contributed to the economic ruin  
14 of millions of Americans were illegal when they occurred but,  
15 due to lax oversight and enforcement, the behavior went  
16 unchecked throughout the housing boom of the early 2000s and  
17 ultimately resulted in the foreclosure crisis; and  
18

19 WHEREAS, the State is again experiencing a housing boom,  
20 with Hawaii home prices rising 26.4 percent between 2011 and  
21 2014, and continued the upward trend, hitting historic highs in  
22 2018; and  
23

24 WHEREAS, the time to examine the strength of the State's  
25 foreclosure fraud laws and determine whether or not these laws  
26 are being followed is now, when preventative measures can still  
27 be taken, and not after the next recession or housing market  
28 crash; now, therefore,  
29

30 BE IT RESOLVED by the Senate of the Thirtieth Legislature  
31 of the State of Hawaii, Regular Session of 2019, the House of  
32 Representatives concurring, that the Director of Commerce and  
33 Consumer Affairs is requested to convene a mortgage foreclosure  
34 fraud task force to develop recommendations to improve mortgage  
35 fraud protections; and  
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37 BE IT FURTHER RESOLVED that the task force is requested to:  
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- 39 (1) Review existing federal and state laws and practices  
40 in place to protect home loan borrowers in Hawaii from  
41 fraudulent mortgage practices;  
42



- 1 (2) Assess the state of enforcement of existing laws and  
2 regulations;
- 3
- 4 (3) Examine areas under existing law that could be  
5 strengthened to better protect homeowners' rights,  
6 including:  
7
- 8 (A) Dual track foreclosure;
- 9
- 10 (B) Implementation of a single point of contact for  
11 homeowners during loan servicing, modifications,  
12 short sales, or deeds-in-lieu;
- 13
- 14 (C) Tenant rights in cases where a home is being  
15 foreclosed on;
- 16
- 17 (D) Publication of notices of public sales of  
18 foreclosed properties;
- 19
- 20 (E) Robosigning and other violations of notarial law;
- 21
- 22 (F) The adequacy of time periods provided to  
23 homeowners to cure any default or alleged  
24 default;
- 25
- 26 (G) The role of the Bureau of Conveyances in  
27 reviewing, processing, handling, and distributing  
28 conveyance documents;
- 29
- 30 (H) Violations of due process arising from a  
31 mortgagee's failure to provide timely and  
32 adequate information to homeowners subject to  
33 foreclosure;
- 34
- 35 (I) The adequacy of tools to prosecute mortgage  
36 fraud; and
- 37
- 38 (J) How to eliminate deficiency judgements in all  
39 foreclosures, short sales, and deeds-in-lieu; and  
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41 BE IT FURTHER RESOLVED that the task force is requested to  
42 develop recommendations to improve fraud protections through



1 increased statutory protections and adoption of stronger  
2 mortgage servicing and foreclosure best practices; and  
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4 BE IT FURTHER RESOLVED that the task force is also  
5 requested to review other states that have adopted a homeowners  
6 bill of rights, such as California, and develop a similar Hawaii  
7 Homeowner Bill of Rights; and  
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9 BE IT FURTHER RESOLVED that the mortgage foreclosure fraud  
10 to task force is requested to consist of the following:  
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- 12 (1) The Director of Commerce and Consumer Affairs or the  
13 Director's designee, who shall serve as chairperson;  
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- 15 (2) The Attorney General or the Attorney General's  
16 designee;  
17
- 18 (3) Registrar of the Bureau of Conveyances or the  
19 Registrar's designee;  
20
- 21 (4) A student or faculty member of the University of  
22 Hawaii William S. Richardson School of Law;  
23
- 24 (5) A representative of the Hawaii Friends of Restorative  
25 Justice;  
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- 27 (6) A representative of the mortgage services industry, to  
28 be selected by the Director of Commerce and Consumer  
29 Affairs;  
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- 31 (7) A real estate broker licensed to practice in Hawaii,  
32 to be selected by the Director of Commerce and  
33 Consumer Affairs;  
34
- 35 (8) An attorney who represents mortgage lenders in  
36 foreclosure actions, to be selected by the Director of  
37 Commerce and Consumer Affairs;  
38
- 39 (9) An attorney who represents borrowers in foreclosure  
40 actions, to be selected by the Director of Commerce  
41 and Consumer Affairs; and  
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(10) Others, including members of the public, as recommended by the working group; and

BE IT FURTHER RESOLVED that the task force is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2020; and

BE IT FURTHER RESOLVED that the task force be dissolved on June 30, 2020; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of Commerce and Consumer Affairs, Attorney General, Registrar of the Bureau of Conveyances, Dean of the University of Hawaii William S. Richardson School of Law, and President of Hawaii Friends of Restorative Justice.

OFFERED BY:

  
Pau & R  
JTS S

  
  
  
  


